

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RAFAEL MERCADO,

Petitioner,

ORDER

v.

08-cv-671-slc

CAROL HOLINKA,
Warden, FCI-Oxford,

Respondent.

On February 23, 2009, this court denied petitioner leave to proceed *in forma pauperis* on appeal in this action and certified that his appeal was not taken in good faith. Now the Court of Appeals for the Seventh Circuit has issued an order dated May 22, 2009, holding that this court erred in its bad faith determination and instructing the court to assess an initial partial filing fee for the appeal. Petitioner's initial partial payment must be calculated from a certified copy of his trust fund account statement for the six-month period immediately preceding the filing of his notice of appeal. 28 U.S.C. § 1915(a)(2). Petitioner has not submitted the necessary trust fund account statement. Until he does so, I cannot determine the amount of his initial partial payment.

Accordingly, IT IS ORDERED that petitioner may have until June 18, 2009, in which to submit a certified copy of his trust fund account statement for the six-month period

beginning approximately August 22, 2009 and ending approximately February 20, 2009.

Entered this 29th day of May, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge